

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

CAMBRIAN SCHOOL DISTRICT.

OAH Case No. 2016040460

ORDER DENYING NOTICE OF  
INSUFFICIENCY

On April 4, 2016, Parent on Student's behalf filed a Due Process Hearing Request<sup>1</sup> (complaint) with the Office of Administrative Hearings naming Cambrian School District. On April 27, 2016, District filed a Notice of Representation and Insufficiency as to Student's complaint.

APPLICABLE LAW

The named parties to a due process hearing request have the right to challenge the sufficiency of the complaint. (20 U.S.C. § 1415(b) & (c).) The party filing the complaint is not entitled to a hearing unless the complaint meets the requirements of title 20 United States Code section 1415(b)(7)(A).

The complaint is deemed sufficient unless a party notifies the Office of Administrative Hearings and the other party in writing within 15 days of receiving the complaint that the party believes the complaint has not met the notice requirements. (20 U.S.C. § 1415(c)(2)(C); Ed. Code, § 56502, subd. (d)(1).)

A complaint is sufficient if it contains: (1) a description of the nature of the problem of the child relating to the proposed initiation or change concerning the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child; (2) facts relating to the problem; and (3) a proposed resolution of the problem to the extent known and available to the party at the time. (20 U.S.C. § 1415(b)(7)(A)(ii)(III) & (IV).) These requirements prevent vague and confusing complaints, and promote fairness by providing the named parties with sufficient information to know how to prepare for the hearing and how to participate in resolution sessions and mediation. (See H.R.Rep. No. 108-77, 1st Sess. (2003), p. 115; Sen. Rep. No. 108-185, 1st Sess. (2003), pp. 34-35.)

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<sup>1</sup> A request for a due process hearing under Education Code section 56502 is the due process complaint notice required under title 20 U.S.C. section 1415(b)(7)(A).

The complaint provides enough information when it provides “an awareness and understanding of the issues forming the basis of the complaint.” (Sen. Rep. No. 108-185, *supra*, at p. 34.) The pleading requirements should be liberally construed in light of the broad remedial purposes of the IDEA and the relative informality of the due process hearings it authorizes. (*Alexandra R. ex rel. Burke v. Brookline School Dist.* (D.N.H., Sept. 10, 2009, CIV. 06-CV-0215-JL) 2009 WL 2957991[nonpub. opn.]; *Escambia County Bd. of Educ. v. Benton* (S.D. Ala. 2005) 406 F.Supp.2d 1248, 1259-1260; *Sammons v. Polk County School Bd.* (M.D. Fla., Oct. 28, 2005, 8:04CV2657T24EAJ) 2005 WL 2850076 [nonpub. opn.]; but cf. *M.S.-G v. Lenape Regional High School Dist. Bd. of Educ.* (3d Cir. 2009) 306 Fed.Appx. 772, 775 [nonpub. opn.].) Whether the complaint is sufficient is a matter within the sound discretion of the Administrative Law Judge. (*Assistance to States for the Educ. of Children with Disabilities & Preschool Grants for Children with Disabilities* (Aug. 14, 2006) 71 FR 46,540-46541, 46699.)

## DISCUSSION AND ORDER

Student’s complaint includes a proof of service stating Student served the complaint on OAH and all named parties, including counsel for District, by first class mail. The proof of service is not signed or dated. Nevertheless, OAH received the complaint by mail on April 4, 2016, with a mailing postmark of April 2, 2016. District did not indicate in its NOI when it received the complaint or contest service. Therefore, the undersigned ALJ presumes District also received the complaint on or about April 4, 2016. District filed its notice of representation and NOI on April 26, 2016, which is 22 days after the complaint was filed with OAH. Even giving District the benefit of the doubt for one or two additional days for postal delivery, District did not file its NOI within the statutorily required timeline.

Student’s complaint is deemed sufficient.

IT IS SO ORDERED

DATE: April 27, 2016

DocuSigned by:  
*Adrienne L. Krikorian*  
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ADRIENNE L. KRIKORIAN  
Administrative Law Judge  
Office of Administrative Hearings